



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 28, 1994

John Horn, Ed.D.  
Superintendent  
Mesquite Independent School District  
405 East Davis  
Mesquite, Texas 75149

OR94-089

Dear Dr. Horn:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code, formerly V.T.C.S. article 6252-17a.<sup>1</sup> Your request was assigned ID# 22081.

The Mesquite Independent School District ("the school district") received a request for the following information:

Any letters, memos, reports and/or other correspondence between the Superintendent of the Mesquite Independent School District and members of the Board of Trustees of the Mesquite Independent School District that mention, discuss or report on citizens who live in the Mesquite Independent School District and who are not employees of the Mesquite Independent School District from August 1, 1992 through May 1, 1993. In particular, I am interested in the names of David W. Gilbreath, Art Greenhaw, Joe H. Hicks, Charlie Axtell, Herman Tovey, Gary Ward and/or Robert Seward.

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<sup>1</sup>The Seventy-third Legislature repealed V.T.C.S. article 6252-17a. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the the Government Code at chapter 552. *Id.* § 1. This codification of the Open Records Act is a nonsubstantive revision. *Id.* § 47.

You have enclosed copies of your weekly administrative reports to the school district's board of trustees for the weeks of January 31, 1992 through May 28, 1993.<sup>2</sup> You marked portions of each letter as within section 552.111 of the Government Code, an exception to required public disclosure in the Open Records Act.

Section 552.111 of the Government Code excepts

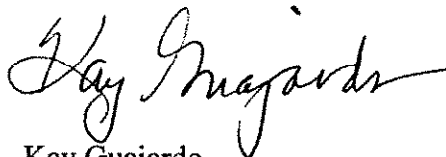
[a]n interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency.

This exception applies to internal communications that consist of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body at issue. Open Records Decision No. 615 (1993). We agree that some information in the reports at issue reflects the policymaking processes of the school district; however, we do not agree with all of your markings. The exception does not apply to factual information. *Id.* We have indicated on the documents which portions you may withhold based on section 552.111 of the Open Records Act.

Portions of the newsletters contain the names of students and parents of students in the district. These names are protected from disclosure by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, known as FERPA. *See* Open Records Decision No. 332 (1982) at 3. We have marked the portions of the newsletters which you must withhold under FERPA.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Kay Guajardo  
Assistant Attorney General  
Open Government Section

KHG/rho

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<sup>2</sup>Since the requestor seeks correspondence from August 1, 1992 through May 1, 1993, you need not release the weekly reports issued before that time, *i.e.*, the letters issued between January 31, 1992 and July 31, 1992.

Ref.: ID# 22081

Enclosures: Marked documents

cc: Mr. David W. Gilbreath  
2020 Eastbrook Circle  
Mesquite, Texas 75150  
(w/o enclosures)